

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Orbin Zaldivar,

Plaintiff,

*-against-*

Case No.: 2:23-cv-01434

JANL, Inc. d/b/a Sergio's Pizzeria & Restaurant, Sergio  
Olivero, Severina Olivero and Luciano Olivero a/k/a Louis  
Olivero,

Defendants.

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**DECLARATION OF STEVEN J. MOSER IN SUPPORT OF PLAINTIFF'S RENEWED  
MOTION FOR DEFAULT JUDGMENT**

Steven John Moser declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct.

1. I am the attorney for the Plaintiff in this action.
2. I submit this declaration in support of Plaintiffs' renewed motion for Default Judgment.
3. This action was commenced on February 23, 2023 against JANL, Inc. d/b/a Sergio's Pizzeria & Restaurant, Sergio Olivero, Severina Olivero and Luciano Olivero a/k/a Louis Olivero, to recover damages for violations of the Fair Labor Standards Act (FLSA), the New York Labor Law (NYLL) and the Hospitality Industry Wage Order (12 NYCRR 146).
4. Upon Plaintiff's request, the Clerk noted the Default of JANL, Inc. and Sergio Olivero pursuant to Rule 55(a) on August 28, 2023.
5. Plaintiff's claims against Severina Olivero and Luciano Olivero a/k/a Louis Olivero were dismissed without prejudice on February 8, 2024.<sup>1</sup>

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<sup>1</sup> See Docket Order dated February 8, 2024.

6. By this motion, Plaintiff seeks judgment as follows:

Overtime and Minimum Wages (Counts I-III)	\$ 131,903.00
Spread of Hours Pay (Count IV)	\$ 17,184.00
Liquidated Damages on Counts I-IV	\$ 149,087.00
Prejudgment Interest (through 2/21/2025)	\$ 73,632.19

**Total** **\$ 371,806.19**

7. On September 25, 2024 I personally conducted searches of the Department of Defense Manpower Data Center website which show that the Defendant Sergio Olivero was not an active service member after the filing of the complaint, when the default against Mr. Olivero was entered, and until September 25, 2024.


8. On February 25, 2025 I personally conducted a search of the Department of Defense Manpower Data Center website which shows that the Defendant Sergio Olivero was not an active service member as of February 18, 2025.

9. Annexed hereto are true and accurate copies of the following documents:

Exhibit 1:	Complaint (ECF No. 1)
Exhibit 2:	Certificate of Default as to JANL, Inc. and Sergio Olivero (ECF No. 16)
Exhibit 3:	Stipulation of Dismissal as to Severina Olivero and Luciano Olivero a/k/a Louis Olivero (ECF No. 20)
Exhibit 4:	Plaintiff's damages spreadsheet
Exhibit 5:	Plaintiff's damages spreadsheet (showing formulas)
Exhibit 6:	Certificates from the Department of Defense's SCRA website obtained on September 25, 2024.
Exhibit 7:	Certificate from the Department of Defense's SCRA website obtained on February 18, 2025.

I declare under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: Huntington, New York  
February 18, 2025

  
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Steven John Moser, Esq. (SM1133)